

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-478V

(Not to be Published)

DEBORAH TEBAULT, *on behalf of her*
minor child, J.T.

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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Special Master Corcoran

Filed: November 21, 2016

Decision; Attorney's Fees and Costs.

Andrew D. Downing, Van Cott & Talamante, PLLC, Phoenix, AZ, for Petitioner.

Sam Shirazi, U.S. Dep't of Justice, Washington, DC, for Respondent.

ATTORNEY'S FEES AND COSTS DECISION¹

On April 15, 2016, Deborah Tebault filed a petition on behalf of her minor child, J.T., seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program").² The Petition alleged that the Diphtheria-Tetanus-acellular Pertussis ("DTaP") and Hepatitis A vaccines that J.T. received on April 19, 2013, precipitated an encephalopathy, causing him to experience language and other developmental impairments, as well as physical symptoms

¹ Because this decision contains a reasoned explanation for my actions in this case, I will post it on the United States Court of Federal Claims website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) ("Vaccine Act" or "the Act"). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

such as chronic constipation. *See* Petition at 1 (ECF No. 1). Petitioner filed a motion for a decision dismissing the case on October 26, 2016, which I granted the next day. *See* ECF Nos. 18-19.

Petitioner has now filed an unopposed motion for final attorney's fees and costs, dated November 21, 2016. *See* ECF No. 22. Petitioner requests reimbursement of attorney's fees and costs in the combined amount of \$19,000.00. *Id.* at 1. In addition, and in compliance with General Order No. 9, Petitioner represents that she incurred no litigation-related expenses in conjunction with this proceeding. *Id.*. Respondent has represented that she does not object to the sum requested. *Id.*

I approve the requested amount for attorney's fees and costs as reasonable. Accordingly, an award of \$19,000.00 should be made in the form of a check payable jointly to Petitioner and Petitioner's counsel, Andrew Downing, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of Petitioner's motion.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.